Motion put and carried

Secretary to the Council: The Title of the Bill is "The Cochin Wireless Telegraphy Bill".

Mr. M. Sivarama Menon *(Advocate-General):* I beg to move that the Standing Order 32 may be suspended and that the Bill be taken up for consideration.

Deputy President: The Standing Order is suspended.

Motion put and carried

Clauses 2 to 10 put and carried

Clause 1 put and carried

The Title and Preamble put and carried

Mr. M. Sivarama Menon *(Advocate-General)* I beg to move that the Cochin Wireless Telegraphy Bill be taken up and finally passed day after tomorrow.

Mr. K. P. Kannan Nayar *(Secretary to Government):* I second it.

Motion put and carried

The Cochin Municipal Act (Amendment) Bill

Mr. K. P. Kannan Nayar *(Secretary to Government):* Sir, I rise to move that the Cochin Municipal Act (Amendment) Bill be read in the Council. In making this motion I do not wish to make any long speech. The statement of objects and reasons given in the amending Bill itself will give you the reasons why the Government think it necessary to bring in such a measure. At present there is no provision in the Municipal Act which empowers the Government to make exemptions where the Government deems it expedient to grant such an exemption. Recent instances came to the notice of the Government where the Government thought that such exemption should be given in the case of some persons or institutions. For the absense of this power the Government had to address the Municipality several times. But the Council consistently refused to comply with the request of the Government in that matter. The Government therefore think it necessary that in cases where the Government considers it necessary or expedient to grant exemptions from the provisions empowering the Council to levy license fees this power should be in the hands of the Government. That this is not a new power left in the hands of the Government will be seen if you refer to some of the other provisions, for instance where the Council is empowered to levy tolls on vehicles or animals entering the Municipal area the Council has got the power to levy such tolls. But the

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Government is given the power by a notification to give exemption to animals or vehicles for which the Government think exemption should be granted.

Mr. A. Eachara Menon *(Chittur-Rural):* To the great chagrin of the Municipality.

Mr. K. P. Kannan Nayar *(Secretary to Government):* But in such cases the Government think that that power should be in their hands. I may tell the hon'ble members of this House that though there has been that power with the Government for the last so many years it has never been abused. But for certain incidents that took place very recently, the Government would not have thought it necessary to have that power in their hands. Government feel the want of the power in their hands to grant exemptions. That is why this amending Bill has been brought here.

Mr. K. R. Viswambharan *(Ezhuvas-Talappalli):* Will the Government be pleased to explain such instances ?

Mr. K. P. Kannan Nayar *(Secretary to Government):* It is unnecessary. The Government wanted a particular boat to be given exemption from the collection of landing charges in Ernakulam or Cochin Municipality. The landing places are constructed by Government and the Municipality are allowed to collect the landing charges. All the landing places here are constructed at the expense of the Government. But the Municipality is asked to collect the landing charges and keep them in proper order, and they have now the power to collect the landing charges for all the vessels that come and land either in Cochin or here. Recently the Government thought that exemption should be granted to a particular boat. But the Municipality said there is no provision for giving such an exemption and they were not prepared to grant such exemption. In fact this concession was given to the boats at the time of the previous Diwan. Up till the passing of the Municipal Act that concession was being enjoyed by them. Now the Municipality says that they cannot make any exemption and that they are not going to grant any exemption. Though as a matter of courtesy Government said that this has to be done, because it is a matter of reciprocity, the Municipality said they are not going to do it. Government feel that in such matters they should have the power to grant exemptions. The House may be rest assured that that power will be used only in very exceptional cases after taking the sense of the Government's Municipality also. It is only pitiable that in a small matter, like this the requests to the Municipality should have been refused. Though the landing places were constructed by the Government, it is the Municipality that is collecting the landing

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fees. That is the position in which the Government find itself at present and that is why this power is sought to be taken into the hands of the Government.

Mr. M. K. Devassy *(Adur):* Will it be defeating the powers of the Municipality?

Mr. K. P. Kannan Nayar *(Secretary to Government):* That is why I said, even in the matter of collecting tolls there is the power in the Government to issue a notification granting exemptions in cases where Government think it necessary.

Mr. T. V. Subramania Ayyar *(Nemmara):* May I know the circumstances in which this exemption is claimed?

Mr. K. P. Kannan Nayar *(Secretary to Government):* Only one instance in the case of a boat and that is an instance where that privilege has been extended to it for the last so many years. The owners of the boat were getting this exemption for the last 12 or 13 years. It was only recently that the matter was brought to the notice of the Government that the concession was not now allowed. A lot of correspondence passed between the Government and the Municipality. They said that they are not going to grant the request. So Government feel they should have such power vested in them. It is the Harbour Authority's boat. They own a few boats here and they have occasions to come and land their boats here. Our Government boats have not to pay any landing fee. The Government thought that this concession should be extended to the Harbour boats also. But the Municipality refused.

Mr. M. K. Devassy *(Adur):* Can the Municipality exempt if they want?

Mr. K. P. Kannan Nayar *(Secretary to Government):* No. In fact the Municipality cannot exempt. But with the sanction of the Government they need not collect the fee.

Mr. M. K. Devassy *(Adur):* Can the Government *suo moto* exempt or only on the application of the Municipality?

Mr. K. P. Kannan Nayar *(Secretary to Government):* No. The amendment that is proposed is to section 247 which runs as follows:

"Nothing in this chapter shall be construed as requiring the Government to take out a license in respect of any place in the occupation or under the control of or any property belonging to the Government". The exemption will apply only in such cases. In no other case can there be any exemption. The Council also cannot exempt.

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Mr. A. B. Salem *(Mattancheri):* Can we not rule that this is a part of the Government boat?

Mr. K. P. Kannan Nayar *(Secretary to Government):* That would be rather straining the language. The Government do not want to do that.

Mr. M. K. Devassy *(Adur):* Suppose the Municipality is against it. Where is the objection in giving the Government a power to exempt on the application made by the Municipality?

Mr. K. P. Kannan Nayar *(Secretary to Government):* Government probably may not have had any objection. But seeing the attitude of the particular Municipality, in this matter, though the Government itself made the request the Council was determined not to grant its request and Government feel that they should have this power.

* **Mr. M. Sivarama Menon** *(Advocate-General):* Government are forced to bring this amendment on account of a particular reason that there has been consistent refusal on the part of Municipal Council to accede to the very courteous request made by the Government, and as has been already observed, it is not a case where exemption was sought to be given to a private boat owner. In a case where a boat owned by the State of Cochin is taken over in our own waters to jurisdiction beyond the State it enjoys the privilege of not having to pay any landing fee. As a matter of courtesy and reciprocity the boats owned by other institutions should also enjoy the same privilege. It will be discourteous to demand of them small landing fees. Finding as a matter of fact that there is no provision in the Municipal Act by which that exemption can be given, the Government addressed the Municipality. It is out of courtesy that the Goevrnment made the request to the Municipal Council. There were several modes of doing it. But Government do not wish to indulge any such modes even though there has been this refusal on the part of the Municipal Council. Suppose the Municipal Council is able to collect this landing fee. For the construction of those landing places the money was spent by the Government. Suppose those landing places are withdrawn from the control of the Municipality because they are only landing places vested in the Council. Then the Municipal Council as a whole would be suffering from serious loss of revenue. Ever since the Regulation of 1096 there had not been a single occasion when Government had any opportunity to complain of such a conduct on the part of any Municipality in the State and when exceptional

* Speech not corrected by the hon'ble member

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events took place Government felt that it is on account of want of power that Government is reduced to such straits. The Government of Cochin has not got the power to grant exemption in one or two cases even though the State boats are exempted by foreign Governments. Such a conduct should not be put up with any fair conscience and equanimity and therefore Government are fully confident of the fact that this is a power not exercised at all or if at all, exercised only in some exceptional cases.

Government must certainly have the power to exercise it. In cases where courteous requests have been received, they cannot be uncourteously and summarily dismissed on technical grounds. If it were a case where the Government also wanted to follow it, Government could have enforced it by several ways, but the result would be that the town as a whole will be affected. The main source of revenue will be cut off. And then the Hon'ble House will question that. Government do not wish to stand any such questioning and therefore after explaining the real situation to the Hon'ble House Government thought the House will be pleased to protect the prestige and honour of the Government by making those reservations of power with an open declaration that this power is not to be exercised at all unless and until such very exceptional instances occur. There has not been a single occasion on the part of the Government to demand the exercise of such a power. And therefore, it is only on account of these exceptional reasons that this Bill has been brought forward.

Mr. V. J. Mathai *(Planters):* May I request the Hon'ble Member for Law to kindly tell us the name of the Municipality under reference ?

Mr. M. Sivarama Menon *(Advocate-General):* Of course the Hon'ble Secretary to Government did not particularly want to refer to the Municipality and therefore I am not prepared to disclose that fact. If the Hon'ble House wants it and if the Secretary to Government has no objection, in so doing.....

Mr. A. B. Salem *(Mattancheri):* May I know Sir, whether the Government boats are exempt from Municipal tax ?

Mr. K. P. Kannan Nayar *(Secretary to Government):* Oh, Yes.

Mr. A. B. Salem *(Mattancheri):* Suppose the Cochin State boats go to Travancore territory, should we not pay anything ?

Mr. K. P. Kannan Nayar *(Secretary to Government):* No. Need not pay.

Mr. M. Sivarama Menon *(Advocate-General):* Boats belonging to three Governments, *viz.*, Cochin, Travancore and British India, are exempt from taxes.

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Mr. C. R. Iyyunni *(Trichur-South):* May I know why the word "person" has been put in there? (Exempt any person or institution).

Mr. M. Sivarama Menon *(Advocate-General):* The chapter refers to all.

***Mr. E. Ikkanada Warriar** *(Cheruthuruthi):* Sir, this involves a very wide principle and so it cannot be lightly dealt with, as a mere question of granting license to a small boat in a particular case. The Council will have to consider in detail what exactly the Council is committed to by the acceptance of this Bill. Chapter 12 of the Municipal Act refers to license fee. It contains about 40 to 60 sections and various sorts of licenses that are dealt with there are for keeping of animals, slaughtering industries, factories, milk-trade, markets, butchers, fish mongers, disposal of dead and many other things. The Government is exempted from the operation of all these obligations to take out a license or to pay license fees and that is contained in section 247. Now I shall read section 247. "Nothing in this Chapter shall be construed as requiring the Government to take out a license in respect of any place in the occupation or under the control of, or, any property belonging to the Government". The Government is exempted from payment of license fees and all obligations of this kind. Now, the Government want to reserve to itself the power to exempt any body of persons or an institution from the payment of license fees or even taking out a license in any of these large number of subjects. The only argument that is advanced before us is that in a particular case which arose there was the question of prestige. I do not find anything of the kind. I neither find prestige nor justice whatever in that argument. What is the argument? Certain institutions requested the Government to exempt them from the license fees payable to the Municipality. Government has simply to tell these people that the affairs in the Municipality are governed by the Municipal Act. You have simply to carry out the provisions of that Act. Where is the loss of prestige if any respectable man is simply to obey the law and pay the license fees? Suppose that gentleman comes here and lives in the town. He has to pay the professional tax. He has to pay it. To obey the law, the accepted law, and thus enjoy the amenities provided by the Municipalities will never be considered to be in derogation of any of their rights. I therefore submit that if this section is capable of vast mischief, it may be apparent in an innocent case like that. I do not know how the matter has finally ended. Even granting for argument's sake that the municipality has the power, and if the municipality

*Speech not corrected by the hon'ble member.

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were able simply to give exemptions, will not any respectable municipality do it? I do not know how this controversy arose, what the details of the controversies are? My submission is that there is absolutely no necessity to empower the Government with this vast power. Let us look into the very scheme of the Act. The whole of the Act is this, to give all the powers to the municipalities and the Government reserve only a right of control or supervision over its affairs. The Government have the right of appeal in case the municipality misbehaves in a particular case. The parties can appeal to the Government if the decision is not satisfactory to them. Government has no initiative. You must look into any of the sections of the Municipal Act. All the work is done by the Municipality, all the power is exercised by the municipality. The Government have control or supervision over the action of the municipality. If that is so, why should the Government be given the power to initiate in a matter like this.

Mr. K. P. Kannan Nayar *(Secretary to Government):* What about tolls?

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* That is the only probable exemption.

Mr. K. P. Kannan Nayar *(Secretary to Government)*: What are the grounds?

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* The vehicles used in the municipal limits are also used in other places.

Mr. K. P. Kannan Nayar *(Secretary to Government):* What of that?

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* This is no toll. This is a license fee. It is distinct from a toll altogether.

Mr. K. P. Kannan Nayar *(Secretary to Government):* It is not a license fee. It is a landing fee.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* What is this power? As per the amendment as it stands the Government need not consult the Municipality. It can simply issue a notification tomorrow in the Cochin Government Gazette exempting any institution from the operation of this provision. They can exempt it without even referring to the municipalities. It will affect the income of the municipality to a very great extent and after all what is the harm for a law-abiding man in a municipality to take out the necessary license? I can understand if the exemption is made in favour of a Government.

Mr. K. P. Kannan Nayar *(Secretary to Government):* That is no license fee.

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Mr. E. Ikkanda Warriar *(Cheruthuruthi):* It is a license fee. Landing fee is practically for using the place. The amending section applies to all the provisions of the Chapter. Chapter 12 relates to the license fees and this section, as I said before this House, gives a catalogue of all the subjects that require the taking out of a license. The Government may by notification in the Cochin Government Gazette exempt any person or institution from the provisions of this Chapter. Today it refers only to a boat, tomorrow it may be to something else. Tomorrow Government may order that such and such an industry need not take out a license. Then what is the Municipality for? As the Hon'ble Member for Trichur said, what is the necessity for exempting persons? It is an interference which should never be, according to me, allowed. If the Government are prepared to send this for the opinion of all the various municipalities and they want to reserve to themselves all the powers to deal with the situation, that is something I can understand, I therefore request the Hon'ble Members to oppose this Bill as it is fraught with various mischiefs so far as the powers of the municipality is concerned and also its prestige.

Mr. A. B. Salem *(Mattancheri):* I also rise to oppose this amendment to the Municipal Act. It cuts at the root of democratic self-government. If a municipality composed of a number of gentlemen who are citizens of the State, who are patriotic men, who come out to serve the town and who are leading men, if they are not prepared to exempt a particular institution or particular persons from the operation of paying a little money to the municipality, I ask the question why should an irresponsible Government sit over their head and say we want a power to over-ride them. That is the principle that is involved. We know that this Municipal Regulation is in the irresponsible half, while the Town Council is in the responsible half. If it came from the ministerial portfolio of Government, then I would have supported it. Because if the Minister misbehaves, we can have some remedy, because he is responsible. Supposing the Diwan takes it into his head to do what he pleases to exempt A, B, C or D, what is the help that we have got? We cannot censure the Diwan. We are helpless to correct him and therefore we cannot arm the irresponsible half with wider powers than what they have got now. Our attempt in this Council is slowly but steadily to make inroads into the spheres of the irresponsible part of the Government and to reduce them to responsibility. That is the object with which we go on and the bureaucracy little by little put pressure to withstand the pressure. They say, give us little more wider powers. And why should, after all, a little money be grudged by any institution or any

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person to the municipality within which one lives comfortably. I know a large number of exemptions already exist from tolls. I do not wish to say much about tolls. Tolls are part of the Government dues. I see a number of palace cars are exempted from payment of tolls. Why they should be exempted, I do not know. If a poor citizen, who has to work hard, has to pay the tolls, I do not see why palace car owners should not pay, because they get allowances also from the Government without doing anything and they are also competing with us in all walks of life. Therefore there is no reason to exempt them except upon the loyalty of the citizens. I say therefore the power of exemption must be given to the citizens and to the citizens' institutions like the municipality rather than to the Government. I am sure patriotic citizens who have got loyalty to the House will certainly exempt them as a matter of honour and privilege. Why should the Government feel that the patriotic citizens will not deal with the palaces as the Government would be dealing with them. There is no reason why we should distrust our own people when we are trusting the Government. Yesterday we heard that we could not trust Government to find money to the Rural Development Minister; if they cannot give the necessary money from time to time they would starve the Rural Ministry to death. They are bound to foster it and feed it and they have to give more and more money to it, as the rural development grows more and more. Or else we will force them to ear-mark some fines. We will throw away the reserved budget, when we feel that they are not going to give sufficient money to the rural Minister. With the control in that way exercised, we would see that justice is done to our popular Minister. We have got power, only we must know how to exercise that, as cunningly as they cunningly oppose us. They are coming here with an innocent proposition that the Government boats owned by the harbour which represents the three Governments, namely Cochin, Travancore and British should be exempted. I am astounded at the statement that these could not be considered as Government boats. That would have saved the whole situation. Then why this Amendment Act which gives wider powers than is necessary? When we take a boat to the harbour jetties we are not allowed to land at particular jetties.

Mr. K. P. Kannan Nayar *(Secretary to Government):* It is not a fact.

Mr. A. B. Salem *(Mattancheri):* Why it is not a fact? We are not allowed to land at particular jetties, whereas other boats are allowed.

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Mr. K. P. Kannan Nayar *(Secretary to Government):* That is not a fact.

Mr. A. B. Salem *(Mattancheri):* It is a fact. I have experienced it myself.

Mr. K. P. Kannan Nayar *(Secretary to Government):* I do not think there is any objection.

Mr. A. B. Salem *(Mttancheri):* At particular places we cannot land. Discrimination is made between citizen and citizen as far as certain landing places are concerned. We have no case if a particular kind of boat is not allowed to land, at a particular jetty.

Mr. K. P. Kannan Nayar *(Secretary to Government):* It is not a fact.

Mr. A. B. Salem *(Mattancheri):* It is a fact and we have experience of that. You say it is not a fact. I do not know whether the Hon'ble Member has got any experience. There are members here who have got the experience. When we have undergone the experience how can you say it is not a fact? You may not have had that experience. That is not a matter in issue. Therefore they must know that there are persons here who will also stand up for their rights. I for one could not see why the harbour people should not pay a little to the municipality. Whose money are they paying? —Part of our own money. Why should they grudge? Are there not adjustments made? Of course some arrangement may be made to see that nobody molests them. It won't wound the dignity and the money may be recovered. There is no difficulty in all these. I am for respecting all respectable men and institutions. Whenever anybody comes here in such boats it may be noted and bills may be sent and the money recovered. That is the Municipality's look-out. Government can always direct the municipality and the municipality is bound under the sections of the Regulation as they stand to respect any observations made by the Government. There is a provision in the Municipal Act to that effect and you can cancel any order of the Municipality. You have got ample powers to deal with a particular case. No wider powers are necessary. And particularly in the feeling that we have got about the realms of responsibility, it would be not wise on the part of this Council to add to irresponsible powers. (*Hear, hear*). I therefore oppose this measure.

Mr. T. K. Nayar *(Pazhayannur):* On a point of information is it a fact that you have got the power to exempt vehicles belonging to certain persons from payment to the municipality?

Mr. K. P. Kannan Nayar *(Secretary to Government):* Yes.

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Mr. T. K. Nayar *(Pazhayannur):* And about taking licenses?

Mr. M. Sivarama Menon *(Advocate-General):* Government can exempt anybody from taking out licenses.

Mr. T. K. Nayar *(Pazhayannur):* Why not apply the same provision here also?

Mr. K. P. Kannan Nayar *(Secretary to Government):* In the present case, it is more allied to the tolls.

Mr. T. K. Nayar *(Pazhayannu):* If it is landing fees, one can understand. It is simply to save the prestige of the Government. But, for the license fee, I do not think there is any justification. Why not the Government reconsider this matter?

Mr. M. K. Devassy *(Adur):* Will the Government have any objection to refer this matter to the Select Committee?

Mr. K. P. Kannan Nayar *(Secretary to Government):* I will reconsider the position and then discuss the matter on another occasion in this very Council. This is not after all a very urgent matter.

Mr. T. K. Nayar *(Pazhayannur):* I move that the consideration of this Bill be postponed to the next sitting of the Council.

The motion was unanimously carried.

The Cochin Rubber Control Act (Amendment) Bill

Mr. P. J. George *(Joint Secretary to Government):* I beg leave to introduce the Cochin Rubber Control Act (Amendment) Bill in Council. The Objects and Reasons have already been stated. The purpose is to bring this legislation in line with the revised agreement in accordance with the recommendations of the International Rubber Regulation Committee.

*__Mr. V. J. Mathai__ *(Planters):* I second it. In rising to second this Bill, my desire is to bring to the notice of this Hon'ble House certain facts which ought to be borne in this connection. Our benign Government have been pleased to extend their fullest support to the cause of the planters in the matter of the prevention of the importation of uncouponed Burma rubber. And in that connection in kind consideration of the resolution which I brought before this House twice, the Government has given through the words of the Hon'ble Secretary to Government that the Government brought to the notice of the Government of India three points. I am quoting from the reply that was given by the Hon'ble Secretary on 19th January

*Speech not corrected by the hon'ble member

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